O/finance/53

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G **BRANCH**

Subject:—

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C O N T E N T S.

Legal Department File No. O. Finance / 53. (G-32).

Sr.No.	R.I./O.No.	Subject	Pages.
1	O.No.G-764/11-12-56.	Whether the claim of the Municipality in respect of the Urban Immoveable Property tax against Govt. is sustainable in law or whether it cannot be rejected as time barred.	1-8

R.D.P.
22/8/56.
S.C.

1714/31/8

1/31/8

It appears that the Framji Cowasji Institute namely the Wellington Cinema Building was requisitioned by the Govt. of India in 1944. The Govt. of India vacated the premises on 1-4-1946 and the Milk Commissioner occupied it. It appears that the Milk Commissioner's office was inthe occupation of the said premises upto 17-5-1948 and subsequently it was occupied bythe Commissioner of Labour and that office is stillin occupation. From the letter at p. 1 of File MC/FCT/Accts it appears that the Bombaymun cipality preferred a claim to the Milk Commissioner forthe payment of its taxes for theperiod from 1st April 1946 to 31st March 1947 and the whole amount except Rs. 4435/12/- pertaining to the urbanimmoveable property tax was paid. It also appears that the Bombay Municipality also preferred a claim for taxes including the urban immoveable property tax for the period 1st April 1947 to 31st March 1948 and the Milk Commissioner had no objection to payment being made to the Municipality of the amount. The F.D. was, however, doubtful about the liability of Govt. for payment of the Urban Immoveable Property tax and the R.L.A. was consulted. R.L.A. in his opinion No. 8810 dated 16th Sept. 1948 opinied that the U.I.P. tax was not a municipal tax and therefore, Govt. which was responsible to pay municipal taxes would not be liable for the U.I.P. tax and trustees of the building would be liable for its payment. On this advice the payment of Rs 4435/12/- on account of the said tax only was withheld and the trustees of the Institute were informed accordingly and the Bombay Municipality was requested to recover the said amount from the trustees. It however, appears that in 1952 it was noticed that

after .....

after the Commissioner of Labour came to occupy thepremises, all the taxes including the U.I.P. Tax from 1948 to 1952 were paid by him. As the payment was made unauthorizedly and under mistake the R.L.A. was requested to advise about the method of making recovery. The R.L.A. in his opinion No.16802/A dated 11th Oct. 1952 advised that there was no point in asking the Corporation torefund the amount as the amount recovered was collected onbehalf of Govt. and that it must have been credited to Govt. nor was it feasible to deduct the amount from the compensation payable to the trustees fixed on requisition. The R.L.A. therefore, advised that the Corporation should be advised about the wrong payment and be asked to refund the Collection charges paid for collecting the tax and to take steps to collect the amount from the trustees of the institute from whom the amount was infact due. It, however, appears that Govt. on interview with the Trustees decided to continue to pay the U.I.P. Tax to the Corporation and issued instructions to the Commissioner of Labour and also directed the C.S.D. to do the same in respect of the amount of the tax due from the Milk Commissioner to the Corporation. The Milk Commissioner, thereupon, reques ed the Asstt. Assessor and Collector kx of the Bombay Municipal Corporation to prefer a bill and the latter has forwarded a consolidated bill of the U.I.P. for the total amount of Rs.9433-15-0 (Rs 9355/10/-) for the institute building and Rs 78-5- for the garage) and the C.S.D has passed a G.R. Sanctioning the payment tothe Corporation. As the claim of the Corporation is five to seven years old the A.G. has raised the question whether claim is not time barred and therefore can be rejected. The R.L.A. is, therefore, requested to advise.

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Office of the R.L.A.

In recovering the urban immovable property tax the Municipality acts as a statutory agent of Government and so long as such agency continues there would be no bar of limitation(See Mitra's Limitation Act pages 555).Consequently the claim of the municipality for Rs 9435-15-0 on account of collection charges forthe period from 1st April 1946 to 16th May 1948 would not be ~~xxxxxxxxx~~ timebarred.

o/c Sd/-P.N.L.
11/12
Remembrancer of Legal Affairs.

U.R. to F.D. No. G-764 dated the 11th December 1953.

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